



# City of Santa Barbara Planning Division

## PLANNING COMMISSION MINUTES

February 12, 2009

### CALL TO ORDER:

Chair Larson called the meeting to order at 1:08 P.M.

### I. ROLL CALL:

#### **Present:**

Chair Stella Larson

Vice-Chair Addison S. Thompson

Commissioners Bruce Bartlett, Charmaine Jacobs, John Jostes, Sheila Lodge, and Harwood A. White, Jr.

#### **Staff Present:**

Danny Kato, Senior Planner

N. Scott Vincent, Assistant City Attorney

Jake Jacobus, Associate Planner/Urban Historian

Melissa Hetrick, Project Planner/Environmental Analyst

Kathleen Kennedy, Associate Planner

Gabriela Feliciano, Commission Secretary

#### **Staff absent:**

Julie Rodriguez, Planning Commission Secretary

### II. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

No requests were made.

- B. Announcements and appeals.

No announcements were made.

- C. Comments from members of the public pertaining to items not on this agenda.

Chair Larson opened the public hearing at 1:08 P.M. and, with no one wishing to speak, closed the hearing.

**ACTUAL TIME: 1:11 P.M.**

**III. NEW ITEM:**

**APPLICATION OF TRISH ALLEN, SUZANNE ELLEDGE PLANNING & PERMITTING SERVICES, AGENT FOR ORIENT EXPRESS HOTELS, TRAINS & CRUISES, EL ENCANTO HOTEL AND GARDEN VILLAS, 1900 LASUEN ROAD, APN 019-170-022, R-2/4.0/R-H: TWO FAMILY RESIDENTIAL/ 4 UNITS PER ACRE/ RESORT-RESIDENTIAL HOTEL ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, 3 UNITS/ACRE (MST2007-00140)**

The proposed project is a Revised Master Plan consisting of the following components: 1) a predominantly underground utility distribution facility and a surface valet parking lot with an operations facility below in the northwest corner; 2) Mission Village, consisting of 5 cottages with a valet parking garage below in the northeast corner; 3) Cottages 27 and 28, which were previously approved and eliminated; and 4) a swimming pool with a fitness center below. The proposal also includes a realignment of a small portion of the sandstone wall at the main driveway entrance on Alvarado Place to provide better circulation. Also, a new trash enclosure, screening gate, retaining walls and landscaping are proposed for the service area adjacent to the Main Building. The four parking spaces that were previously approved in the service area would be relocated to the Mission Village parking structure.

The discretionary applications required for this project are:

1. Modification to allow the utility distribution facility and Mission Village to encroach into the front setback along Mission Ridge Road (SBMC§28.27.050);
2. Modification to allow the utility distribution facility and surface parking lot to encroach into the front setback along Alvarado Place (SBMC§28.27.050);
3. Modification to allow Mission Village and Cottages 27 and 28 to encroach into the interior setback on the east side of the property (SBMC§28.27.050);
4. Modifications to provide less than the required distance between buildings (SBMC§28.27.050.2);
5. Development Plan Approval, as defined within R-H Zone standards (SBMC§28.27.100);
6. Development Plan Approval to allocate 7,021 square feet of non-residential square footage from the Minor Addition and Small Addition categories (SBMC§28.87.300); and
7. Transfer of Existing Development Rights of 10,000 square feet of non-residential floor area to the project site (SBMC§28.95).

The Planning Commission will also consider approval of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Case Planner: Kathleen Kennedy, Associate Planner  
Email: [kkennedy@SantaBarbaraCA.gov](mailto:kkennedy@SantaBarbaraCA.gov)

Kathleen Kennedy, Associate Planner, gave the Staff presentation.

Suzanne Elledge, Suzanne Elledge Planning and Permitting Services, made some opening statements.

Trish Allen, Suzanne Elledge Planning and Permitting Services, gave the applicant presentation; and Jim Lefever, Architect, Gensler, and Doug Fell, Legal Counsel, answered questions.

The following Design Review board members spoke:

1. Donald Sharpe, Vice Chair of Historic Landmark Commission (HLC), stated that he was not on the HLC for the original Master Plan approval and that the HLC has been dealing with the fragmentation of the project and reviewing it in bits and pieces. He read the motion made at the December 10, 2008 HLC meeting, which were in regard to revisions to the service area and driveway entry. Mr. Sharpe mentioned that the letter distributed to the Planning Commission from HLC member, Robert Adams, landscape architect, represented his personal comments and were not a part of any HLC meeting or minutes.
2. Fermina Murray, HLC member, stated that Commissioners were concerned about the piece-mealing of the project, that this was part of the process in the beginning because it was a very difficult project, but as the project developed, things got away from them and it was difficult to understand from month to month what was really happening. She stated that the HLC minutes reflect only the highlights of all the meetings. She stated that she joined the HLC in 2004 so obviously this began well before she was there. She stated that one of the biggest issues that Commissioners expressed at the various meetings was the entrance and the row of eucalyptus trees at the northwest corner and Alvarado Place. She stated that she had voiced strong emotions about these character defining elements for the site, as well as the neighborhood and that is why a lot of people were speaking about it. She stated that on the east or northeast side, all of the letters are for it because the encroachments there are very minimal, the row of trees will be preserved and because of the dip into the Mission Village. She expressed her personal opinion and concern that the character of the northwest corner is being exchanged for a utility and laundry facility. She stated that for the rest of the Revised Master Plan, the HLC, with Bill LaVoie, worked diligently to improve the appearance of the buildings. She stated that the HLC did not talk much about Mission Village but that most of its comments were in regard to the northwest corner. When asked by Chair Larson whether she was referring to the row of trees that were proposed to be preserved, she stated that the HLC has a problem with the condition that states that an arborist

determines whether or not they are diseased. She further stated that because the trees are the character defining part of the site and need to be preserved, there is a need to look at how the revised project is going to impact the trees.

Chair Larson opened the public hearing at 1:54 P.M.

The following people spoke in support of the project:

1. Jim Knight, Riviera Association President, commented that the Orient Express has well-known credentials in preservation of historic properties all over the world; many of the residents were excited to hear about the much-needed renovation; and the concerns of the immediate neighbors have been evaluated, addressed and mitigated.
2. Brigitte Forssell, neighbor, commented that El Encanto property should be restored and functioning as soon as possible; the planning process has been attentive to the historic significance of the property; the concerns regarding noise issues have been studied and evaluated by certified professionals and scientific methodologies were applied; and other controversial projects in the area turned out to be beneficial to the neighborhood.
3. Peter Jordano, former Riviera resident, commented that noise should be expected if residents choose to buy property next to a hotel; although the narrow entrance is historical, it is not safe to drive through; and expressed concern with the delay's affect on the community.
4. Paul Cashman, former Riviera Association President, urged the approval of the project for it to move forward; the Orient Express has been attempting to mitigate the negative impacts and provide a world class hotel; and the Riviera Association feels that concerns have been addressed
5. Edward Cooper, neighborhood resident, commented that the new proposal will be beautiful and classy; not all the residents are opposed to proposal; and the applicant has listened to neighbors.
6. Greg Parker, neighbor, commented that the environmental impacts of the proposed Modifications have been adequately addressed; the efficient use of property should be approved by the City; supports transfer of development rights because it will increase the quality; and a partially constructed project for an extended length of time is not needed.
7. Steve Cushman, Executive Director, Santa Barbara Region Chamber of Commerce, commented that the Chamber of Commerce supports the project; and due diligence and science has been done.

The following people spoke in opposition to the project or with concerns:

1. Elizabeth Leslie, neighbor, expressed concern with tandem parking, requested parking be underground; the tranquility and charm of the northwest corner is lost; and suggested that the cottages and plantings that were removed should be placed back.
2. Ronald Hays, neighbor, commented that all neighbors want the hotel to open, but do not want a monolith operating facility in an area which historically had quiet and sedate cottages; concerned with parking lot to be used when the original parking lot was

- illegally placed in that area; and the proposed Modifications are not supported by the Historic Landmarks Commission.
3. Dawnna Boo, neighbor, commented that the delay of the hotel's opening gives time for the applicant to give the neighbors' concerns merit; a petition was signed in December by neighbors and others in the City; and the main issue was in regard to the proposed changes to the previously approved plans for the quaint, low-key resort.
  4. Lynn Cederquist, speaking on behalf of Ray and Olga Cockel, neighbors, expressed concern with changes made to the original approved project; the parking lot is in the middle of neighborhood, not downtown; and a proposal smaller in density would be more compatible with the surrounding tranquil and peaceful neighborhood.
  5. Jan Marco Von Yurt, neighbor, expressed opposition to what is being proposed for the northwest corner; there is no need to have the utility plant the farthest away from the hotel and proposed buildings; and to be efficient the utility plant should be in the center.
  6. Tim Angulo, neighbor, is opposed to above ground parking and the utility facility being placed where proposed.
  7. Joanna Von Yurt, neighbor, commented that what is proposed is in violation of the Zoning Ordinance; underground parking should be as originally offered; the laundry operation and office should be distributed throughout the site; and just because setback Modifications were encroached in the past, does not mean it should now be allowed.
  8. Allan Blair, former Riviera resident, commented that the quasi-industrial complex in the northwest area of the site is not in consonance with the City's aims; requested denial of placement of these activities where proposed because of the impact and degradation on the quality of life of the residents.
  9. Margo Kenny, neighbor, commented about the preservation of the rural quality; and suggested consideration of the Orpet Park on the south end part of the site for the utility facility.
  10. Farrokh Nazerian, neighbor, commented that the project would violate the zoning ordinance by putting all the noisy, polluting, and undesirable aspects of the project on the northwest corner; the site plan should be revised; the Mitigated Negative Declaration is legally incorrect and defies common sense; and the concentration of the back office, utility, laundry and parking could be disbursed throughout the site.
  11. Marc Chytilo, attorney at law, representing some neighbors, requested a denial of the Modifications in the northwest corner and stated that the following are issues of concern: visual, historical, noise with valet parking, traffic and car alarms, cumulative impacts, planning issues, deed restrictions imposed; the HLC's statement that the "acceptance of the Historic Structures Report does not confer the Commission's acceptance of the current configuration of the Utility Distribution Facility (UDF) and garage as shown in the drawings"; the loud generation of sound from the UDF; and the lack of an EIR preparation shortcuts the ability to understand the project's impacts.

Dana Morrow completed a request to speak form, but did not speak.

With no one else wishing to speak, the public hearing was closed at 2:45 P.M.

Staff and/or applicant responded to the Commission questions about:

1. The applicant stated that the noise level while the El Encanto Hotel was in operation was not analyzed as part of the noise study.
2. Staff stated that the proposed structure would have a 17 foot setback instead of the required 30 foot setback on both Alvarado Place and Mission Ridge Road at the northwest corner of the utility distribution facility.
3. The applicant stated that the distance between trees and the construction has not been surveyed; however, if the trees have to be saved, an arborist would be consulted to make sure the footings do not kill the trees.
4. Scott Vincent, Assistant City Attorney, stated that the 2004 deed restrictions refer to the Declaration of Covenants, Conditions, and Restrictions (CC&Rs) filed at the County Clerk-Recorder's Office that is intended to memorialize intentions of the Planning Commission and City Council regarding land use actions. CC&Rs do not forever freeze the development of a property.
5. Staff stated that the Fire Department has commented that all eucalyptus trees being preserved should be trimmed, the crowns separated, all dead wood removed and maintained. The five eucalyptus trees in the northwest portion of the property are to remain unless an arborist report determines that they should be removed because of disease, safety, or fire hazard.
6. The applicant stated that the cottage will have 1,000 square feet and the area underground to be devoted to the laundry facility would be approximately 1,000 square feet as well. Its purpose is related to laundry service for guests on site, and washing of bathrobes and towels. All other linens will be cleaned off site.
7. The applicant stated that the Master Plan design with no back house was the failure of the architect at the time. The new design will allow the hotel to operate properly. Keeping some of these services on site has environmental benefits as well.
8. The applicant stated that they assessed other places where the utility distribution facility could be placed and concluded that other areas would result in potential impacts to the historic areas of the site. No other areas would work as well as the northwest corner.
9. The applicant stated the project is called a "Revised Master Plan" because there was already a developed Master Plan project that was previously approved.
10. The applicant stated that the 92 units include lock out units.
11. Staff clarified that, as to an unforeseen need for more square footage, this project is using all its Measure E square footage. The applicant cannot get more square footage without Planning Commission review. It would require another Development Plan Approval. Almost all units are historical and must remain in their historical configurations. There is no freedom to change the footage. Those not considered historical would allow changes.
12. Staff stated that the visual aesthetics do not refer to what was in the first Master Plan that was reviewed by the Planning Commission in 2004, but rather what is seen presently.
13. Staff stated that the parking structure in the northeast corner is a separate underground facility and the buildings on top are on separate foundations; therefore, the distance between buildings requirement applies.
14. Staff indicated that the closest house to the northwest corner is 73 feet from the road.

15. Staff stated that the Commission would need to determine whether the proposed area for the back house is appropriate.
16. Scott Vincent, Assistant City Attorney, explained that Measure E allocations deal with non-residential use, anticipates the merger and division of land, and sets parcels as existed in 1999 when Measure E was adopted. If the parcel is divided after Measure E, the allotment is divided amongst the divisions of the original lot. There is a conservation of the square footage.
17. Staff stated that the removal of historically significant trees at the end of their lifespan or because of disease would not constitute a significant impact, because it is the nature of the resource. That is not to say that they could not be replaced by trees in-kind to replace the historical character.
18. Staff stated that El Encanto Road ends at the hotel's property line.

The Commissioners made the following comments:

1. El Encanto has been in existence longer than most of the structures surrounding it. It should be cherished and the City should do whatever possible to encourage it for both the public and economic benefit.
2. The Orient Express' commitment to move forward with a project is appreciated, particularly in the face of what is seen with other hotels in the city in various states of disrepair and wounding the region's economic and general way of life.
3. The fragmentation process inherited from the previously approved plan is difficult.
4. The proposed change to the driveway entry is very noticeable.
5. The extent of disruption of the site to date substantially exceeds the original plan in terms of topography and eligible historic structure demolition.

**Modifications:**

6. One Commissioner supports a Modification to allow the utility distribution facility and Mission Village to encroach into the front setback along Mission Ridge Road;
7. One Commissioner supports a Modification to allow the utility distribution facility and surface parking lot to encroach into the front setback along Alvarado Place;
8. Two Commissioners support a Modification to allow Mission Village and Cottages 27 and 28 to encroach into the interior setback on the east side of the property;
9. Two Commissioners support Modifications to provide less than the required distance between buildings.
10. One Commissioner is supportive of Modifications in principal to provide less than the required distance between buildings. Also, expressed concern regarding the location of outdoor fireplaces directly under pine trees.
11. Could not support proposed Modifications along Mission Ridge and Alvarado Place for the utility distribution plant because the Commission did not feel that the modifications were appropriate..
12. The encroachment of Mission Village buildings into Mission Ridge Road and Cottages 27 and 28 are different from the utility distribution site because they have a less intense use.

13. The purpose of the 30 foot setback is to make a resort hotel more compatible with the surrounding residential neighborhood.
14. If there was a parking lot or other uses along Alvarado Place, it does not mean a Modification should continue. This is important in order to maintain the historic character of the site.
15. The surface parking lot is an improvement from the 2004 proposal because it has been lowered further into the grade, hidden behind the wall, and it is reduced in capacity.
16. The setbacks came into being long after the project was built. Most of the project is in the setbacks because the setbacks came later.
17. The encroachments below grade are improvements.
18. The distances between buildings are encroachments to a much lesser extent than the historical buildings many of which are being replaced. The HLC supports them, other than the UDF at the northwest corner.
19. The facilities could be arranged in such a way that the Modifications would not be necessary.
20. The applicant should consider what would be done if the Modifications are not approved.

**Development Plan Approval:**

21. One Commissioner supports the Development Plan Approval, as defined within R-H Zone standards.
22. Two Commissioners support the Development Plan Approval to allocate square feet of non-residential square footage.
23. Three Commissioners believe that the R-H zone standards that are about neighborhood compatibility are not seen in the proposal.

**Transfer of Existing Development Rights:**

24. Three Commissioners support the Transfer of Existing Development Rights.
25. One Commissioner stated that it was never the intent to take square footage from an industrial zone and place it in a residential area.
26. All transferred footage is subterranean and is not impacting neighborhood.

**Mitigated Negative Declaration:**

27. Five Commissioners support the approval of the Mitigated Negative Declaration.
28. One Commissioner stated that it is not realistic to ask that car alarms be turned off when valet parking.
29. One Commissioner stated that the tandem parking would increase the intensity of use that would be more detrimental to the neighborhood.

**Utility Distribution Facility location:**

30. Construction of the facility in such close proximity to the eucalyptus trees would negatively impact their life expectancy.

31. The EIR process could be avoided if there were design recommendations integrated into the project to reduce problems and environmental impacts. These would include relocating the utility distribution facility further to the south.
32. The northwest facility is of concern and could not support the project due to a lack of demonstration of necessity.
33. The "industrial strength" central heating plant is problematic next to houses in the R-H zone.
34. The above grade structure serves the purpose of buffering subterranean sounds as well as the sounds and headlights from the valet parking lot.
35. The valet parking lot is sunken down better, but still changes the streetscape. Before there was a sense of open space and landscaping.
36. If the cottages that existed in the northwest area had not been demolished, it would have avoided a sense of encroachment now that UDF is being proposed there.
37. It would be an advantage to not have so many back house activities located at the northwest corner.

**\*\* THE COMMISSION RECESSED FROM 4:07 P.M. TO 4:25 P.M. \*\***

Mr. Fell stated that the applicant is willing to relocate the above grade portion of the utility distribution facility out of the setback, so that it no longer would require a Modification. Mr. Fell also mentioned that if the utility distribution facility was no longer part of the project description, a ~~54~~<sup>52</sup> space surface parking lot with Modifications has already been approved at this location, when the Orient Express did not own the property. The proposed wall around the proposed parking lot and the lowering of the grade was actually requested by the Historic Landmarks Commission.

The Commissioners concluded with the following comments:

1. With regard to the Development Plan Approval in the R-H zone, when a use is intensified in an established neighborhood, the project should be adjusted to reduce the adverse external impacts that it causes on the neighborhood.
2. Would be able to support the project if the applicant would place the new utility distribution facility structure out of the setback.
3. As long as the subterranean facility encroaching into the setback area below grade is covered with dirt and not visible to anyone, it would be supportable.

The Modification requests to allow the above ground portion of the utility distribution facility to encroach into the setbacks along Alvarado Place and along Mission Ridge Road were withdrawn by the applicant.

**STRAW VOTES:**

1. How many Commissioners would agree with a Modification to allow Mission Village to encroach into the front setback along Mission Ridge Road?

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

2. How many Commissioners would agree with the approval of the Mitigated Negative Declaration prepared for the project, making the findings in the Staff report?

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

**MOTION: Jostes/Bartlett**

**Assigned Resolution No. 004-09**

To make the findings and adopt the Mitigated Negative Declaration prepared for the project.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

**MOTION: Jostes/Bartlett**

**Assigned Resolution No. 004-09**

Approved the project, making the findings for approval of: 1) a Modification to allow Mission Village to encroach into the front setback along Mission Ridge Road; 2) a Modification to allow the surface parking lot to encroach into the front setback along Alvarado Place; 3) a Modification to allow Mission Village and Cottages 27 and 28 to encroach into the interior setback on the east side of the property; 4) Modifications to provide less than the required distance between buildings; 5) Development Plan Approval, as defined within R-H Zone standards 6) a Development Plan Approval to allocate 7,021 square feet of non-residential square footage from the Minor Addition and Small Addition categories; 7) a Transfer of Existing Development Rights of 10,000 square feet of non-residential floor area to the project site; making the findings as outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

Ayes: 6 Noes: 1 (Lodge) Abstain: 0 Absent: 0

Chair Larson announced the ten calendar day appeal period.

**ACTUAL TIME: 4:49 P.M.**

**IV. ADMINISTRATIVE AGENDA**

- A. Committee and Liaison Reports.

Commissioner White reported on the Water Commission meeting that occurred on Monday, February 9. A document was circulated to the Planning Commission of the Water Commission's comments with regard to the desalination facility.

- B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

None were requested.

- C. Action on the review and consideration of the following Draft Minutes and Resolutions:
- a. Draft Minutes of January 8, 2009
  - b. Resolution 001-09  
600 Block of State Street and 119 E. Cota Street
  - c. Resolution 002-09  
1600 Cecil Cook Place
  - d. Resolution 003-09  
3885 and 3887 State Street

**MOTION: White/Lodge**

To continue the approval of the January 8, 2009, Draft Minutes to the Meeting of February 19, 2009.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

**MOTION: White/Jostes**

To approve Resolutions 001-09, 002-09 and 003-09 as corrected.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

V. **ADJOURNMENT**

Chair Larson adjourned the meeting at 4:57 P.M.

Prepared by Gabriela Feliciano, Commission Secretary

Submitted by,

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Julie Rodriguez, Planning Commission Secretary





# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 004-09

1900 LASUEN ROAD

MODIFICATIONS, DEVELOPMENT PLAN APPROVALS,

TRANSFER OF EXISTING DEVELOPMENT RIGHTS, AND MITIGATED NEGATIVE DECLARATION

FEBRUARY 12, 2009

**APPLICATION OF TRISH ALLEN, SUZANNE ELLEDGE PLANNING & PERMITTING SERVICES, AGENT FOR ORIENT EXPRESS HOTELS, TRAINS & CRUISES, EL ENCANTO HOTEL AND GARDEN VILLAS, 1900 LASUEN ROAD, APN 019-170-022, R-2/4.0/R-H: TWO FAMILY RESIDENTIAL/ 4 UNITS PER ACRE/ RESORT-RESIDENTIAL HOTEL ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, 3 UNITS/ACRE (MST2007-00140)**

The proposed project is a Revised Master Plan consisting of the following components: 1) a predominantly underground utility distribution facility and a surface valet parking lot with an operations facility below in the northwest corner; 2) Mission Village, consisting of 5 cottages with a valet parking garage below in the northeast corner; 3) Cottages 27 and 28, which were previously approved and eliminated; and 4) a swimming pool with a fitness center below. The proposal also includes a realignment of a small portion of the sandstone wall at the main driveway entrance on Alvarado Place to provide better circulation. Also, a new trash enclosure, screening gate, retaining walls and landscaping are proposed for the service area adjacent to the Main Building. The four parking spaces that were previously approved in the service area would be relocated to the Mission Village parking structure.

The discretionary applications required for this project are:

1. Modification to allow the utility distribution facility and Mission Village to encroach into the front setback along Mission Ridge Road (SBMC§28.27.050);
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4. Modifications to provide less than the required distance between buildings (SBMC§28.27.050.2);
5. Development Plan Approval, as defined within R-H Zone standards (SBMC§28.27.100);
6. Development Plan Approval to allocate 7,021 square feet of non-residential square footage from the Minor Addition and Small Addition categories (SBMC§28.87.300); and
7. Transfer of Existing Development Rights of 10,000 square feet of non-residential floor area to the project site (SBMC§28.95).

The Planning Commission also considered approval of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, 6 people appeared to speak in favor of the application, and 13 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 5, 2009.
2. Site Plans
3. Correspondence received in support of the project:
  - a. Helena Seyffert-Hill, Santa Barbara, CA
  - b. Don and Mary Schmidt, Santa Barbara, CA
  - c. Geiler Family, via email
  - d. Claire Bogaard, Pasadena, CA and Santa Barbara, CA
  - e. Raymond and Nancy Fisher, Santa Barbara, CA
  - f. Jim Knight, The Riviera Association, via email
  - g. Paul Cashman, former president of The Riviera Association, via email
4. Correspondence received in opposition to the project:
  - a. Judy Orias, Allied Neighborhood Association, via email
  - b. Marc Chytilo, Attorney at Law, via email
  - c. Naomi Kovacs, Citizens Planning Association, via email
  - d. Frank Hotchkiss, via email
  - e. McKenna Spaulding, via email
  - f. Ronald Hays, Santa Barbara, CA
  - g. Farrokh Nazerian, Santa Barbara, CA
  - h. Robert Adams, ~~Historic Landmarks Commission~~, via email
  - i. Paula Westbury, Santa Barbara, CA
  - j. Neighborhood petition of 69 signatures

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission:

I. Approved the subject application making the following findings and determinations:

**A. Final Mitigated Negative Declaration Adoption**

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration together with comments received during the public review period process.
2. The Planning Commission finds on the basis of the whole record before it (including the initial study and comments received) that there is no substantial evidence that the project will have a significant effect on the environment.
3. The Planning Commission finds that the Final Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis.
4. The Planning Commission finds that the Final Mitigated Negative Declaration has been prepared in compliance with CEQA, and constitutes adequate environmental evaluation for the proposed project.
5. A mitigation monitoring and reporting program for measures required in the project or made a condition of approval to mitigate or avoid significant environmental effects has been prepared.
6. The location and custodian of the documents or other materials which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, California.

**B. Modifications (SBMC§28.27.050)**

The modification requests to allow the surface valet parking lot to encroach into the front setback along Alvarado Place; Mission Village Cottages 32 and 33 to encroach into the front setback along Mission Ridge road; Mission Village Cottages 33 and 34 and Cottages 27 and 28 to encroach into the eastern interior setback and the modification requests to provide less than the required distance between buildings are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on a lot, because the amount of encroachment is less than or equal to the encroachment of the amenities that previously existed in these locations, and there is substantial landscape and visual buffers between these amenities and their respective lot lines, as described in Section VII of the Staff Report.

**C. Development Plan Approval (SBMC§28.87.300)**

1. The proposed development complies with all provisions of the Zoning Ordinance. *With the approval of the requested Modifications, the proposed Revised Master Plan will be in compliance with the R-H Zone standards, as described in Section VII of the Staff Report.*

2. The proposed development is consistent with the principles of sound community planning. *The proposed project is consistent with the principles of sound community planning by maintaining the current use of the property as a resort hotel, which is an allowed use in the R-H Zone, and conforms to the General Plan description of the neighborhood, as described in Section VII of the Staff Report. Further, the project has been designed to minimize the impact on its residential neighbors.*
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood. *All exterior alterations onsite require review and approval by the Historic Landmarks Commission (HLC). The HLC has conceptually reviewed the project and has found it to be compatible with the existing buildings and the surrounding neighborhood.*
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock. *The project would not result in a significant impact to City and South Coast affordable housing stock as it will maintain the current use as a resort hotel, and will not increase the number of rooms or employees, as described in Section 8 of the Initial Study/Mitigated Negative Declaration.*
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources. *Adequate City services are currently available to the project site. Water resource impacts are not anticipated with the construction of the proposed development because there will be no increase in water demand as described in Section 9 of the Initial Study/Mitigated Negative Declaration.*
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic. *Traffic impacts are not anticipated with the construction of the proposed development because the hotel maintains the same number of rooms as the previously existing hotel, as described in Section 11 of the Initial Study/Mitigated Negative Declaration.*
7. Resources will be available and traffic improvements will be in place at the time of project occupancy. *Adequate City services are currently available to the project site, and traffic improvements are not required.*

**D. Development Plan in R-H Zone (SBMC§28.27.100)**

1. The proposed development is consistent with the regulations in the R-H zone. *With the approval of the requested Modifications, the proposed Revised Master Plan will be in compliance with the R-H Zone standards, as described in Section VII of the Staff Report.*
2. The proposed development meets the intent of the R-H Zone District by ensuring the least possible conflict with or disturbance of the amenities attached to and associated with adjoining residential areas. *The project has reduced its potential impacts to a less than significant level, and including amenities to increase landscaping and reduce noise, as described in Section VIII.C. of the Staff Report.*

**E. Transfer of Existing Development Rights (SBMC§28.95.060)**

1. The proposed development plans for both the sending and receiving sites are consistent with the goals and objectives of the General Plan of the City of Santa Barbara and the Municipal Code. *The mixed-use development on the sending site received approval by the City Council on April 17, 2001 and met all standards for review. With approval of the requested Modifications, the receiving site (El Encanto Hotel) will comply with all standards for review in Section 28.87.300.E., as stated in the findings C.1 through C.7 above.*
2. The proposed developments will not be detrimental to the site(s), neighborhood or surrounding areas. *The sending site project was approved by the City Council and the Architectural Board of Review, which found the project to be appropriate, and the El Encanto Hotel project has reduced its potential impacts to a less than significant level, and included amenities to increase landscaping and reduce noise.*
3. The floor area of proposed nonresidential development on the receiving site does not exceed the sum of the amount of Existing Development Rights transferred when added to the amount of Existing Development Rights on the receiving site, and does not exceed the maximum development allowed by the applicable zoning of the receiving site. *The proposed total new floor area of 17,021 s.f. does not exceed the sum of the transferred square footage (10,000 square feet) plus the 7,021 s.f. of Small and Minor Additions of Measure E square footage allowed for the site plus the amount of existing development. The proposed development does not exceed the maximum development allowed by the R-H Zone.*

4. Each of the proposed nonresidential developments on the respective sending site(s) and receiving site(s) will meet all standards for review as set forth in Section 28.87.300.E of the Municipal Code and all provisions of this Chapter, and will comply with any additional specific conditions for a transfer approval. *The sending site received approval by the City Council on April 17, 2001 and met all standards for review. With approval of the requested Modifications, the receiving site (El Encanto Hotel) will comply with all standards for review in Section 28.87.300.E., as stated in the findings C.1 through C.7 above.*
5. Development remaining, or to be built, on a sending site is appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community. *The development on the sending site received approval by the City Council on April 17, 2001 and has been constructed. The development was approved by the Architectural Board of Review which found it to be compatible with the surrounding neighborhood.*

II. Said approval is subject to the following conditions:

- A. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.
- B. **Design Review.** The project is subject to the review and approval of the Historic Landmarks Commission (HLC). HLC shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied:
  1. **Arborist Report.** Prior to submittal to the HLC for preliminary approval of development in the northwest corner, the arborist report (required per Condition E.2 below) shall be reviewed and approved by the City's Environmental Analyst. If any of the trees are to be removed pursuant to the arborist determination, the trees shall be replaced with skyline trees.
  2. **Canopy Trees.** At least six canopy trees (minimum 36 inch box size) shall be incorporated into the final plans in the Mission Village area as required by the Historic Landmarks Commission on June 11, 2008.
  3. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

- C. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on February 12, 2009 is limited a Resort-Residential Hotel consisting of a main building, restaurant, swimming pool, fitness center, valet parking, utility distribution facility, associated back of house facilities, and up to 97 guest rooms within the improvements shown on the project plans signed by the chair of the Planning Commission on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
  3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
  4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the HLC the owner is responsible for its immediate replacement.
  5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

6. **Operational Covenants.** The Owners shall operate the hotel in accordance with the following requirements:
  - a. **Parking.** All parking spaces shall be kept open and available for the parking of vehicles in the manner for which the parking spaces were designed and permitted.
  - b. **Landscape Maintenance.** All landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
  - c. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided on-site, the green waste will be hauled off site.
  - d. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
  
7. **Visitor Information Program.** A Visitor Information Program shall be prepared and implemented, subject to review and approval by the Public Works Director. The program shall include, but not be limited to:
  - a. Provide links to alternative transportation sites on the company website.
  - b. Provide information to visitors (prior to them coming) regarding alternative transportation available in Santa Barbara.
  - c. Provide free shuttle service to and from airport, rail, regional bus services and downtown locations.
  - d. A means of providing train, bus and airline schedules and maps to prospective hotel guests.
  - e. A means of providing hotel guests with information on alternative transportation modes, schedules, and maps of access to the Central Business District, beach area and other local and regional points of interest. In addition, the hotel operator shall contact the Metropolitan Transit District to purchase bus and/or shuttle passes or tokens for hotel guests. These passes shall be available to any guests who request them.
  - f. Advertisement for and solicitation of meetings and other events which includes explanation of the City's clean air and energy reduction goals and an explanation of the benefits of using alternative transportation modes.

- g. A means of coordinating special events with the City so that appropriate traffic controls, rerouting, and timing of events can be achieved.
8. **Recyclable Material Use and Collection.** Hotel and restaurant operators shall encourage guests to recycle by using recyclable materials, and providing sufficient and appropriate receptacles, such as recycling containers, in each room. Recyclable material and green waste collection and pick-up areas shall be provided on-site for the hotel and restaurant operations. A minimum of 50 percent of the area devoted to holding trash for the project shall be used for recycling purposes.
  9. **BMP Training.** Employee training shall be provided on the implementation of Best Management Practices (BMPs) in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/ unloading areas in order to keep debris from entering the storm water collection system.
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Dedication(s).** Easements as shown on the approved El Encanto Revised Master Plan and described as follows, subject to approval of the easement scope and location by the Public Works Department and the Building and Safety Division:  

A twenty-foot (20') wide easement for City water main purposes as required for relocation of existing water main as shown on the approved El Encanto Revised Master Plan.
  2. **Hydrology Report.** The Owner shall submit a final hydrology report prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
  3. **Mission Ridge Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Mission Ridge Road and at the intersection of Alvarado Place. The C-1 plans shall be submitted separately from plans submitted for a Building Permit and shall be prepared by a licensed civil engineer. As determined by the Public Works Department, the improvements shall include the following: remove existing hedges from public right-of-way along Mission Ridge Road, abandonment and/or removal of the portion of the existing City owned water main currently traversing the subject property, and construction of new City water main aligned within the Mission Ridge Road rights-of-way eventually crossing the northeastern portion of the property through a twenty-foot (20')

water main utility easement offered to the City and connecting to the existing City owned water main in Mira Vista Avenue, construct driveway apron as shown on approved plans with adequate site visibility, installation of approximately five hundred fifty linear feet (550') of new City standard curb and gutter along entire property frontage including intersection corner of Mission Ridge Road and Alvarado Place, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, connection to City sewer main, public drainage improvements with supporting drainage calculations, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the 2006 MUTCD w/CA supplements, storm drain stenciling where applicable, and provide adequate positive drainage from site. Streetlights shall be installed in accordance with the City Streetlight Design Guidelines as determined by the City Engineer. Any work in the public right-of-way requires a Public Works Permit.

4. **Lasuen Road Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Lasuen Road. As determined by the Public Works Department, the improvements shall include the following: curb and gutter where damaged, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of drainage pipe, curb drain outlets, detention, erosion protection, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the 2006 MUTCD w/CA supplements, provide storm drain stenciling, and provide adequate positive drainage from site. Streetlights shall be installed in accordance with the City Streetlight Design Guidelines as determined by the City Engineer. Any work in the public right-of-way requires a Public Works Permit.
5. **Alvarado Place Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Alvarado Place and at the intersection of Alvarado Place and Lasuen Road. The C-1 plans shall be submitted separately from plans submitted for a Building Permit and shall be prepared by a licensed civil engineer. As determined by the Public Works Department, the improvements shall include the following: remove existing hedges from public right-of-way along Alvarado Place, construct driveway apron as shown on approved plans, curb and gutter where damaged, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory

traffic control signs per the 2006 MUTCD w/CA supplements, storm drain stenciling, provide adequate positive drainage from site. Streetlights shall be installed in accordance with the City Streetlight Design Guidelines as determined by the City Engineer. Any work in the public right-of-way requires a Public Works Permit.

6. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed Agreement to Construct and Install Improvements, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
7. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
8. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
9. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
10. **Drainage and Water Quality.** Final project plans for grading, drainage, stormwater facilities, and project development shall be subject to review and approval by City Building Division and Public Works Department per City regulations prior to issuance of any building or public works permits. At a minimum, any increase in stormwater runoff (based on a 25-year storm event) shall be retained on-site, and the project shall be designed to capture and treat the calculated amount of runoff from the project site for a 1 inch storm event, over a 24-hour period. Sufficient engineered design and adequate mitigation measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water quality pollutants, or groundwater pollutants would result from the project. (W-1)
11. **Erosion Control/Water Quality Protection Plan.** Prior to the issuance of a demolition permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined in the *Procedures for the Control of Runoff into Storm Drains and Watercourses* and the Building and Safety Division *Erosion/Sedimentation Control Policy* (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed, implemented and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public

Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site. At minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation and/or maintenance of each of the following water resource protection strategies:

- Paving and Grinding
  - Sandbag Barriers
  - Spill Prevention/Control
  - Solid Waste Management
  - Storm Drain Inlet Protection
  - Stabilize Site Entrances and Exits
  - Illicit Connections and Illegal Discharges
  - Water Conservation
  - Stockpile Management
  - Liquid Wastes
  - Street Sweeping and Vacuuming
  - Concrete Waste Management
  - Sanitary/Septic Waste Management
  - Vehicle and Equipment Maintenance
  - Vehicle and Equipment Cleaning
  - Vehicle and Equipment Fueling (W-2)
12. **Minimization of Storm Water Pollutants of Concern.** The Owner shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The approved facilities shall be maintained in working order for the life of the project. (W-3)
13. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and

signage for the life of the project, and shall inspect at least annually and submit report to City annually. (W-4)

14. **Passive Drainage Techniques.** Passive/nature water treatment design techniques such as bioswales, infiltration basins, etc, shall be incorporated into open space areas, groundcover, and courtyards to treat the small, frequent storm events that impact water quality in Santa Barbara (a 1 inch storm event, over a 24-hour period). These types of passive/natural capture and filtration design options shall be implemented as opposed to mechanical/underground options, which pose maintenance problems and often times, do not treat runoff as efficiently. These measures shall be incorporated into the drainage plan and shall be subject to review and approval by City Building Division and Public Works Department per City regulations prior to issuance of any building or public works permits. (W-5)
15. **Solid Waste Management Plan.** The Applicant shall develop and implement a Solid Waste Management Plan to reduce waste generated by construction and demolition activities. Consistent with City of Santa Barbara ordinances and in order to achieve the waste diversion goals required by state law, the Contractor may choose to separate waste and recyclables on-site or use a combination of source separation and a construction and demolition (C&D) sorting facility. The Solid Waste Management Plan shall include the following:
  - a. Contact information: The name and contact information of who will be responsible for implementing the Solid Waste Management Plan.
  - b. Waste assessment: A brief description of the proposed project wastes to be generated, including types and estimated quantities during the construction phase of this project. A minimum of 90% of demolition and construction materials shall be recycled or reused.
  - c. Recycling and waste collection areas: Waste sorting and/or collection and/or recycling areas shall be clearly indicated on the project plans and approved by the City Solid Waste Specialist.
  - d. Transportation: A description of the means of transportation of recyclable materials and waste (whether materials will be site-separated and self-hauled to designated centers, or whether mixed materials will be collected by a waste hauler and removed from the site to be processed) and destination of materials.
  - e. Landfill information: The name of the landfill(s) where trash will be disposed of and a projected amount of material that will be landfilled.
  - f. Meetings: A description of meetings to be held between applicant and contractor to ensure compliance with the site Solid Waste Management Plan.

- g. Alternatives to landfilling: A list of each material proposed to be salvaged, reused, or recycled during the course of the Project.
- h. Contingency Plan: An alternate location to recycle and/or stockpile C&D in the event of local recycling facilities becoming unable to accept material (for example: all local recycling facilities reaching the maximum tons per day due to a time period of unusually large volume).
- i. Implementation and Documentation of Solid Waste Management Plan:
  - (1) Manager: The Permit Applicant or Contractor shall designate an on-site party (or parties) responsible for instructing workers and overseeing and documenting results of the Solid Waste Management Plan for the Project Site Foreman. The contact will notify the Public Works Department immediately should any deviance from the Solid Waste Management Plan be necessary.
  - (2) Distribution: The Contractor shall distribute copies of the Solid Waste Management Plan to the Job Site Foremen, impacted subcontractors, and the Architect.
  - (3) Instruction: The Permit Applicant or Contractor shall provide on-site instruction of appropriate separation, handling, and recycling, salvage, reuse, and return methods to be used by all parties at the appropriate stages of project development.
  - (4) Separation and/or Collection areas: The Permit Applicant or Contractor shall ensure that the approved recycling and waste collection areas are designated on site.
  - (5) Construction of Recycling and Waste container facilities: Inspection shall be made by Public Works to ensure the appropriate storage facilities are created in accordance with AB 2176 (2003-04 Legislative Session), California State Public Resources Code 42911 and City of Santa Barbara Zoning Ordinances.
  - (6) Hazardous wastes: Hazardous wastes shall be separated, stored, and disposed of according to federal, state and local regulations.
  - (7) Documentation: The Contractor shall submit evidence at each inspection to show that recycling and/or reuse goals are being met and a Summary of Waste Generated by the Project shall be submitted on a monthly basis. Failure to submit this information shall be grounds for a stop work order. The Summary shall be submitted on a form acceptable to the Public Works Department and shall contain the following information:

- (a) Disposal information: amount (in tons or cubic yards) of material landfilled; identity of the landfill; total amount of tipping fees paid at the landfill; weight tickets, manifests, receipts, and invoices (attach copies).
  - (b) Recycling information: amount and type of material (in tons or cubic yards); receiving party; manifests, weight tickets, receipts, and invoices (attach copies).
  - (c) Reuse and salvage information: list of items salvaged for reuse on project or campus (if any); amount (in tons or cubic yards); receiving party or storage location.
- (8) Contingency Plan: The Permit Applicant or Contractor shall detail the location and recycling of stockpiled material in the event of the implementation of a Contingency Plan. (PS-1)
16. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager.
- E. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
- 1. **Transfer of Existing Development Rights.** The documents transferring the development rights from the sending site to the receiving site shall be submitted to the Community Development Director for review and approval prior to execution. Once the documents effecting the transfer of rights has been executed and recorded, evidence of the recording shall be submitted to the Community Development Department.
  - 2. **Eucalyptus Tree Preservation.** The eucalyptus trees, located along Alvarado Place in the northwest portion of the site, and identified as historically significant, shall be retained unless a City-approved arborist determines that their preservation is not feasible or recommended due to their existing condition relative to life expectancy, disease, or safety reasons. The final design shall, to the maximum extent feasible, preserve the eucalyptus trees located along Alvarado Place. Prior to building permit issuance, final plans shall be accompanied by a City-approved arborist report stating that the design will not adversely impact the eucalyptus trees and shall be subject to the review and approval of the City's Environmental Analyst. If any of the trees are to be removed pursuant to the arborist determination, the trees shall be replaced with skyline trees. (CR-2)
  - 3. **APCD Form Required.** Prior to demolition, an "Asbestos Demolition/Renovation Notification" form must be delivered to APCD.

4. **Mitigation Monitoring and Reporting Requirement.** Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Mitigated Negative Declaration for the project.
5. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
  - a. The frequency and/or schedule of the monitoring of the mitigation measures.
  - b. A method for monitoring the mitigation measures.
  - c. A list of reporting procedures, including the responsible party, and frequency.
  - d. A list of other monitors to be hired, if applicable, and their qualifications.
  - e. Submittal of monthly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/case planner.
  - f. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
6. **Construction Notice.** At least 20 days prior to commencement of construction, the contractor shall provide written notice to all property owners and residents within 300 feet of the project area. The notice shall contain a description of the proposed project, a construction schedule including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions, and provide additional information or address problems that may arise during construction. A 24-hour construction hot line shall be provided. Informational signs with the PEC's name and telephone number shall also be posted at the site. (N-1)
7. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

8. **Park Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Park Commission for the removal of any trees within the front setback.
  9. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Architect, the Arborist, the Landscape Architect, the Project Engineer, the Project Environmental Coordinator, the Contractor and each subcontractor.
  10. **Air Pollution Control District Permits.** APCD permits are required for individual (or grouping) of boilers or large water heaters and for any electrical generator driven by a diesel engine rated at 50 bhp or greater.
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Historic Landmarks Commission.
  2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5 above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.  

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
5. **Recyclable Material Use and Collection.** Hotel and restaurant operators shall provide sufficient and appropriate recycling receptacles in each room. Recyclable material and green waste collection and pick-up areas shall be provided on-site for the hotel and restaurant operations. A minimum of 50 percent of the area devoted to holding trash for the project shall be used for recycling purposes.
6. **Private Driveway Improvements.** The proposed private driveway shall be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Director.
7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community

Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____		_____
Property Owner		Date
_____		
Contractor	Date	License No.
_____		
Architect	Date	License No.
_____		
Engineer	Date	License No.

G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Construction Dust Control – Minimize Disturbed Area/Speed.** Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)
2. **Construction Dust Control - Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.  
  
Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-2)
3. **Construction Dust Control – Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-3)
4. **Construction Dust Control – Gravel Pads.** Gravel pads shall be installed at all access points to prevent tracking of mud on to public roads. (AQ-4)
5. **Construction Dust Control – Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days

shall be covered, kept moist, or treated with soil binders to prevent dust generation. (AQ-5)

6. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
  - a. Seeding and watering until grass cover is grown;
  - b. Spreading soil binders;
  - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
  - d. Other methods approved in advance by the Air Pollution Control District. (AQ-6)
7. **Construction Dust Control – Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-7)
8. **Construction Dust Control – PEC.** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when construction work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District upon request. (AQ-8)
9. **Portable Construction Equipment.** All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit. (AQ-9)
10. **Fleet Owners.** Fleet owners are subject to sections 2449, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of regulations (CCR) to reduce diesel particulate matter (and criteria pollutant emissions from in-use off-road diesel-fueled vehicles.  
  
See <http://www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf>. (AQ-10)
11. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-11)
12. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. (AQ-12)
13. **Equipment maintenance.** All construction equipment shall be maintained in tune per the manufacturer's specifications. (AQ-13)

14. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)
15. **Diesel Construction Equipment.** Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible. (AQ-15)
16. **Engine Timing and Diesel Catalytic Converters.** Other diesel construction equipment, which does not meet CARB standards, shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. (AQ-16)
17. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-17)
18. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be prohibited; electric auxiliary power units shall be used whenever possible. (AQ-18)
19. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out in accordance with the Solid Waste Management Plan developed pursuant to Condition D.15.
20. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
21. **Construction-Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager.
22. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
23. **Construction Hours.** Noise-generating construction activities (which may include preparation for construction work) shall be permitted weekdays between the hours of 8:00 a.m. and 5:00 p.m., excluding holidays observed by the City as legal holidays: New Year's Day (January 1st); Martin Luther King Jr.'s Birthday (3rd Monday in January); President's Day (3rd Monday in February); Memorial Day (Last Monday in May); Independence Day (July 4th); Labor Day (1st Monday in September); Thanksgiving Day (4th Thursday in November); Day Following Thanksgiving Day (Friday following Thanksgiving); Christmas Day (December 25th). \*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday respectively shall be observed as a legal holiday.

Occasional night work may be approved for the hours between 5 p.m. and 8 a.m. on weekdays by the Chief of Building and Zoning per Section 9.13.015 of the Municipal Code. In the event of such night work approval, the applicant shall provide written notice to all property owners and residents within 300 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of any. Night work shall not be permitted on weekends and holidays. (N-2)

24. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
  - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
  - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
  - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
25. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
26. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
27. **Mitigation Monitoring Compliance Reports.** The PEC shall submit monthly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP compliance to the Community Development Department.
28. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) and Project Environmental Coordinator's (PEC) name, contractor(s) and PEC's telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six

feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

29. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (N-3)
30. **Sound Barriers.** As determined necessary by the Planning Division, the project shall employ sound control devices and techniques such as noise shields and blankets during the construction period to reduce the level of noise to surrounding residents and businesses. (N-4)
31. **Location of Equipment. Siting of cranes, hoists, or other semi-stationary heavy equipment** shall be as far away noise-sensitive uses as practical, consistent with construction requirements. (N-5)
32. **Electrical Powered Equipment.** Electrical powered equipment shall be used instead of equipment driven by internal combustion engines where feasible. (N-6)
33. **No Idling of Equipment.** Equipment shall not be left idling for long periods; instead, it should be switched off. (N-7)
34. **Location of Delivery Area.** An area shall be designated for delivery of materials and equipment to site. This area shall be located as far from residential properties as is practical, consistent with construction requirements. This area shall be protected by a temporary barrier blocking the line of sight from the source to any operable residential window. (N-8)
35. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
36. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or

monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
  2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
  3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
  4. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
  5. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Historic Landmarks Commission (HLC).
  6. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

7. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

#### **NOTICE OF APPROVAL TIME LIMITS:**

The approval, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Staff Hearing Officer for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

This motion was passed and adopted on the 12<sup>th</sup> day of February, 2009, by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 6 NOES: 1 (Lodge) ABSTAIN: 0 ABSENT: 0

PLANNING COMMISSION RESOLUTION NO. 004-09  
1900 LASUEN ROAD  
FEBRUARY 12, 2009  
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I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

\_\_\_\_\_  
Gabriela Feliciano, Planning Commission Secretary

\_\_\_\_\_  
Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.